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Double underlining
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DRAFT

LLS NO. 13-0617.01 Esther van Mourik x4215

COMMITTEE BILL

Capital Development Committee

SHORT TITLE: "Lease-purchase Authority For DOA Ofc Consolidation"

A BILL FOR AN ACT

101 CONCERNING THE AUTHORITY OF THE STATE TO ENTER INTO
102 LEASE-PURCHASE AGREEMENTS FOR THE DEPARTMENT OF
103 AGRICULTURE'S OFFICE CONSOLIDATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)

Capital Development Committee. The bill authorizes the state to enter into one or more lease-purchase agreements for the department of agriculture's office consolidation.

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that:

4 (a) Currently, the department of agriculture's eight divisions are
5 housed at various locations throughout the state and four of its divisions
6 have outgrown their available space;

7 (b) The expansion of the markets and plant industry divisions to
8 meet the challenge of expanding the promotion of Colorado's agricultural
9 products and supporting a burgeoning organic industry has strained
10 remaining space resources;

11 (c) In addition to the current space shortage, the department of
12 agriculture is unable to realize opportunities to streamline operations. For
13 example, the animal and brand divisions are located several miles from
14 each other, but if they were located together the department would see
15 efficiencies in training, inspections, and detection of disease, and
16 communications delays would be eliminated;

17 (d) It will be necessary to consolidate all the department's
18 divisions, except for the Colorado state fair, for the consolidation to
19 realize its maximum efficiency. Although the current inspection and
20 consumer services division facility provides adequate space for that
21 division, its optimum location is effectively being encroached by the
22 development in the Highlands neighborhood of metro Denver. Large
23 trucks continue to move through the measurement standards portion of
24 the metrology lab, which could eventually disturb new residents and
25 businesses moving into the redeveloped area. Parking for the area is at a
26 premium, making it difficult for the facility to host large groups of

1 employees or customers.

2 (e) The brand division has been located near the national western
3 stock show complex for many years and, although the facility does
4 provide some benefit to the division, it does not make logistical sense to
5 exclude one division in a department-wide consolidation;

6 (f) The department of agriculture would have liked to have had
7 the animal industry division located with the commissioner's office, plant
8 industry, conservation services, and markets, but there is not enough
9 space at that location so they have had to lease space for that particular
10 division;

11 (g) In order to consolidate all the department's divisions, except
12 for the Colorado state fair, the department considered constructing a new
13 facility or purchasing an existing facility. It was determined that new
14 construction would be cost prohibitive. Instead, purchasing an existing
15 facility and building the necessary office and laboratory space is a more
16 economical means to achieve complete office consolidation.

17 (h) The building would need approximately fifty thousand square
18 feet with suitable ceiling height for the metrology lab. Additionally, test
19 space and ample parking is needed for the plant industry division to
20 provide weekly testing for individuals taking the pesticide applicator
21 exam. The new facility must also have enough space for board and
22 commission meetings with room for the members, department staff, and
23 interested public.

24 (i) The agricultural management fund will need to be used for
25 initial escrow costs, funding the purchase of new furniture, moving
26 expenses, and miscellaneous contingency expenses. The inspection and
27 consumer services division facility will be sold with proceeds going

1 towards the cost of consolidation. The goal is to use these two sources of
2 money as a means to keep the financed portion as low as possible.

3 (j) New funding is not required for the office consolidation.
4 However, the current departmental indirect allocation model will need to
5 be adjusted to support the lease-purchase payment and the department's
6 operating and utility expenses. Increases in cash fund spending authority
7 for the department's indirect lines in the annual general appropriation bill
8 will also be necessary. In addition to these increases, the department will
9 need reappropriated fund spending authority for operating and utility
10 expenses as well as lease-purchase payments.

11 (k) An estimated one hundred fifty-six thousand three hundred
12 sixty-seven dollars of general fund money will be saved in fiscal year
13 2013-14 and one hundred seventy-eight thousand one hundred five
14 dollars of general fund money will be saved in fiscal year 2014-15 as a
15 result of the department's office consolidation. This savings is realized in
16 reductions to the operating expense, lease space, and capital complex
17 leased space lines of the department's section of the annual general
18 appropriation bill.

19 (l) Adjusting the current indirect cost model for the department
20 will not result in a fee increase to any departmental funds. Although
21 increased expenditures from a majority of the cash funds will occur, most,
22 if not all, have sufficient revenues to support the increase.

23 (2) It is therefore in the best interest of the citizens of Colorado to
24 authorize the state of Colorado, acting by and through the state treasurer,
25 to enter into one or more lease-purchase agreements and other agreements
26 as necessary to finance the purchase of an office facility for the
27 department of agriculture's office consolidation.

1 **SECTION 2. Lease-purchase agreement.** (1) (a) The state of
2 Colorado, acting by and through the state treasurer, is authorized to
3 execute a lease-purchase agreement for up to twenty years to purchase an
4 office facility for the department of agriculture's office consolidation. The
5 total amount of the principal component of said lease-purchase agreement
6 shall not exceed six million five hundred sixty-six thousand five hundred
7 twelve dollars (\$6,566,512), plus reasonable and necessary
8 administrative, monitoring, and closing costs and interest.

9 (b) Enactment of this act shall satisfy the requirements of sections
10 24-82-102 (1) (b) and 24-82-801, Colorado Revised Statutes, which
11 require authorization of a lease-purchase agreement by a bill other than
12 an annual general appropriation bill or a supplemental appropriation bill.

13 (2) (a) The lease-purchase agreement authorized in subsection (1)
14 of this section shall provide that all of the obligations of the state under
15 the agreement shall be subject to the action of the general assembly in
16 annually making moneys available for all payments thereunder. The
17 agreement shall also provide that the obligations shall not be deemed or
18 construed as creating an indebtedness of the state within the meaning of
19 any provision of the state constitution or the laws of the state of Colorado
20 concerning or limiting the creation of indebtedness by the state of
21 Colorado and shall not constitute a multiple fiscal-year direct or indirect
22 debt or other financial obligation of the state within the meaning of
23 section 20 (4) of article X of the state constitution. In the event the state
24 of Colorado does not renew the lease-purchase agreement authorized in
25 subsection (1) of this section, the sole security available to the lessor shall
26 be the property that is the subject of the nonrenewed lease-purchase
27 agreement.

1 (b) (I) The lease-purchase agreement authorized in subsection (1)
2 of this section may contain such terms, provisions, and conditions as the
3 state treasurer, acting on behalf of the state of Colorado, may deem
4 appropriate, including all optional terms; except that the lease-purchase
5 agreement shall specifically authorize the state of Colorado to:

6 (A) Receive fee title to all real and personal property that is the
7 subject of the lease-purchase agreement on or prior to the expiration of
8 the terms of the lease-purchase agreement; and

9 (B) Reduce the term of the lease through prepayment of rental and
10 other payments.

11 (II) Any title to property received by the state on or prior to the
12 expiration of the terms of the lease-purchase agreement shall be held for
13 the benefit and use of the department of agriculture.

14 (c) The state of Colorado, acting through the state treasurer, is
15 authorized to enter into ancillary agreements and instruments as are
16 deemed necessary or appropriate in connection with the lease-purchase
17 agreements, including but not limited to ground leases, easements, or
18 other instruments relating to the real property to be purchased.

19 (3) The provisions of section 24-30-202 (5) (b), Colorado Revised
20 Statutes, shall not apply to the lease-purchase agreement authorized in
21 subsection (1) of this section or any ancillary agreement entered into
22 pursuant to paragraph (c) of subsection (2) of this section. Any provision
23 of the fiscal rules promulgated pursuant to section 24-30-202 (1) and
24 (13), Colorado Revised Statutes, that the state controller deems to be
25 incompatible or inapplicable with respect to said lease-purchase
26 agreements or any ancillary agreement may be waived by the controller
27 or his or her designee.

1 **SECTION 3.** In Colorado Revised Statutes, **amend** 35-1-106.9
2 as follows:

3 **35-1-106.9. Agriculture management fund - creation.** There is
4 hereby created in the state treasury the agriculture management fund. The
5 fund shall consist of moneys transferred pursuant to section 38-13-116.7
6 (3), C.R.S., AND ANY MONEYS REALIZED FROM THE SALE OF THE
7 INSPECTION AND CONSUMER SERVICES DIVISION FACILITY. The department
8 shall use such moneys to fund agricultural efforts approved by the
9 commissioner, including, but not limited to, funding additional
10 department employees necessary to implement and manage approved
11 programs. Moneys may be used for direct assistance or grant assistance
12 for conservation districts created pursuant to article 70 of this title.
13 MONEYS IN THE FUND MAY BE USED FOR EXPENSES RELATED TO THE
14 DEPARTMENT'S OFFICE CONSOLIDATION AS AUTHORIZED BY HOUSE/
15 SENATE BILL 13- , ENACTED IN 2013. Moneys in the fund are subject
16 to annual appropriation to the department. Any moneys not expended or
17 encumbered from any appropriation at the end of any fiscal year shall
18 remain available for expenditure in the next fiscal year without further
19 appropriation. All interest derived from the deposit and investment of
20 moneys in the fund shall be credited to the fund and shall not be
21 transferred or credited to the general fund or any other fund.

22 **SECTION 4. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.